

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
TRAVELERS CASUALTY AND SURETY COMPANY  
as Administrator for RELIANCE INSURANCE  
COMPANY,

07 Civ. 6915 (DLC)  
**ECF CASE**

Plaintiff,  
-against-

DORMITORY AUTHORITY – STATE OF NEW YORK,  
TDX CONSTRUCTION CORP. and KOHN PEDERSON  
FOX ASSOCIATES, P.C.,

**COSENTINI  
ASSOCIATES, INC.'S  
FIRST SET OF  
INTERROGATORIES  
UPON KOHN PEDERSON  
FOX ASSOCIATES, P.C.**

Defendants.

-----X  
DORMITORY AUTHORITY – STATE OF NEW YORK  
and TDX CONSTRUCTION CORP.,

Third-Party Plaintiffs,  
-against-

TRATAROS CONSTRUCTION, INC.,

Third-Party Defendant.

-----X  
TRATAROS CONSTRUCTION, INC. and TRAVELERS  
CASUALTY AND SURETY COMPANY,

Fourth-Party Plaintiffs,  
-against-

CAROLINA CASUALTY INSURANCE COMPANY,  
BARTEC INDUSTRIES, INC., DAYTON SUPERIOR  
SPECIALTY CHEMICAL CORP. a/k/a DAYTON  
SUPERIOR CORPORATION, SPECIALTY  
CONSTRUCTION BRANDS, INC. t/a TEC, KEMPER  
CASUALTY INSURANCE COMPANY d/b/a KEMPER  
INSURANCE COMPANY, GREAT AMERICAN  
INSURANCE COMPANY, NATIONAL UNION FIRE  
INSURANCE COMPANY OF PITTSBURGH, PA,  
UNITED STATES FIRE INSURANCE COMPANY,  
ALLIED WORLD ASSURANCE COMPANY (U.S.) INC.  
f/k/a COMMERCIAL UNDERWRITERS INSURANCE  
COMPANY, ZURICH AMERICAN INSURANCE  
COMPANY d/b/a ZURICH INSURANCE COMPANY,  
OHIO CASUALTY INSURANCE COMPANY d/b/a OHIO  
CASUALTY GROUP, HARLEYSVILLE MUTUAL  
INSURANCE COMPANY (a/k/a HARLEYSVILLE  
INSURANCE COMPANY), JOHN DOES 1-20 and  
XYZ CORPS. 1-20,

Fourth-Party Defendants.

-----X

-----X  
KOHN PEDERSON FOX ASSOCIATES, P.C.,

Third-Party Plaintiff,  
-against-

WEIDLINGER ASSOCIATES CONSULTING  
ENGINEERS, P.C., CASTRO-BLANCO PISCIONERI  
AND ASSOCIATES, ARCHITECTS, P.C.,  
ARQUITECTONICA NEW YORK, P.C., COSENTINI  
ASSOCIATES, INC., CERMAK PETERKA PETERSEN,  
INC., JORDAN PANEL SYSTEMS CORP., TRATAROS  
CONSTRUCTION, INC. and LBL SKYSYSTEMS  
(U.S.A.), INC.,

Third-Party Defendants.

-----X

PLEASE TAKE NOTICE, that pursuant to Rule 33 of the Federal Rules of Civil Procedure, third-party defendant Cosentini Associates, Inc. ("Cosentini"), by its attorneys, L'Abbate, Balkan, Colavita & Contini, L.L.P., hereby requests that defendant/third-party plaintiff Kohn Pederson Fox Associates, P.C. ("KPF") answer under oath the following interrogatories, separately and fully in writing, within thirty (30) days after the date of service of this notice. The answers hereto should include all information known up to the date of the verification thereof.

PLEASE TAKE FURTHER NOTICE, that each interrogatory and each subpart of each interrogatory should be accorded a separate answer. Each answer should first set forth verbatim the interrogatory to which it is responsive. Interrogatories or subparts thereof should not be combined for the purpose of supplying a common answer. The answer to an interrogatory or a subpart should not be supplied by referring to the answer to another interrogatory or subpart thereof unless the interrogatory or subpart

referred to supplies a complete and accurate answer to the interrogatory or subpart being answered.

PLEASE TAKE FURTHER NOTICE, that these interrogatories are continuing and KPF should promptly supply by way of supplemental answers any and all additional responsive information or documents that may become known prior to the trial of this action.

### **DEFINITIONS**

Third-party defendant Cosentini hereby incorporates by reference the definitions and rules of construction set forth in Local Civil Rule 26.3. In addition, the following definitions shall apply herein except where otherwise indicated by words or context:

1. Travelers – The term “Travelers” means the plaintiff, its parents, subsidiaries, affiliates, agents, officers, directors, employees, representatives, and each person acting or purporting to act on its behalf, and includes Travelers’ predecessor-in-interest, Reliance Insurance Company.
2. DASNY – The term “DASNY” means the defendant The Dormitory Authority of the State of New York, its parents, subsidiaries, affiliates, agents, officers, directors, employees, representatives, and each person acting or purporting to act on its behalf.
3. Trataros – The term “Trataros” means Trataros Construction, Inc., its

parents, subsidiaries, affiliates, agents, officers, directors, employees, representatives, and each person acting or purporting to act on its behalf.

4. TDX – The term “TDX” means TDX Construction Corp., its parents, subsidiaries, affiliates, agents, officers, directors, employees, representatives, and each person acting or purporting to act on its behalf.

5. Contract – The term “Contract” means the contracts between Trataros and DASNY, together with General Conditions, Supplementary Conditions and Project Manual/Specifications.

6. Project – The term “Project” means the additions and alterations to Baruch College which were undertaken pursuant to the Contract.

7. Unless otherwise stated, these interrogatories and document requests seek documents and information for the time period from January 1, 1995 to the present.

#### CLAIMS OF PRIVILEGE

Pursuant to Local Rule 26.2, if KPF refuses to respond to any interrogatory or document request, or subpart thereof, on the ground of privilege, identify:

1. The nature of the privilege, including work product.
2. If the privilege is being asserted in connection with a claim or defense

governed by state law, the state's privilege rule being invoked.

3. With respect to each document:

- a. the type of document;
- b. general subject matter of the document;
- c. the date of the document;
- d. the author(s) and addressee(s) of the document, and where not apparent, the relationship of the author and the addressees to each other; and
- e. any recipient of the document.

4. With respect to each oral communication:

- a. the name of the person making the communication;
- b. the names of all persons present while the communication was made;
- c. where not apparent, the relationship of the person present to the person making the communication;
- d. the date and place of the communication; and
- e. the general subject matter of the communication.

**INTERROGATORIES**

1. State with particularity each and every act, error and omission constituting the alleged negligence, carelessness, culpable conduct, breach of contract, obligation and warranty that KPF alleges Cosentini committed in connection with the Project.

2. State with particularity every instance where it is claimed that Cosentini failed to exercise the required standard of care, competence and skill in the performance of its duties on the Project.

3. Describe in detail each and every part or element of the Project that KPF alleges that Cosentini defectively designed.
4. Identify each person who has knowledge or information regarding any revision to or deviation from the contract documents in the work performed by Trataros or Trataros' subcontractors during construction, whether such deviation or revisions was initiated, reviewed or approved by Cosentini.
5. If KPF alleges that Cosentini is responsible for any project delays:
  - a. identify what claimed actions or inactions by Cosentini caused the delay;
  - b. identify the length of each claimed delay; and
  - c. identify the damages incurred as a result of each claimed delay.
6. Identify all persons who investigated, inspected, evaluated or rendered an opinion, decision or conclusion as to the sufficiency of Cosentini's design of the Project.
7. Set forth with particularity each and every opinion, decision and/or conclusion reached by each person identified in response to the previous interrogatory.
8. State in detail any part or element of the Project that was removed, replaced or redesigned as a result of the alleged breach of contract or malpractice of Cosentini.

9. State each and every law, rule, regulation, statute, code and ordinance that Cosentini allegedly violated.

10. With regard to the damages claimed by KPF in the Third-Party Complaint:

- a. identify each category of damage alleged;
- b. state the amount for each category of damage alleged; and
- c. state how KPF computed the amount of damages alleged in each category.

11. Identify each person who participated in the preparation of the answers to these interrogatories and, as to each person so identified, indicate the number of the interrogatory, or part thereof, as to which the person supplied information.

DATED: Garden City, New York  
May 16, 2008

Yours, etc.,

L'ABBATE, BALKAN, COLAVITA  
& CONTINI, L.L.P.

Attorneys for Third-Party Defendant Cosentini Associates, Inc.

By:   
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AFFIDAVIT OF SERVICE

STATE OF NEW YORK )  
                         ) ss.:  
COUNTY OF NASSAU )

KAREN A. STAUDT, being duly sworn, deposes and says that deponent is not a party to the within action, is over 18 years of age and resides in Suffolk County, New York.

That on the 16<sup>th</sup> day of May, 2008, deponent served the within FIRST SET OF INTERROGATORIES UPON KOHN PEDERSON FOX ASSOCIATES, P.C. upon:

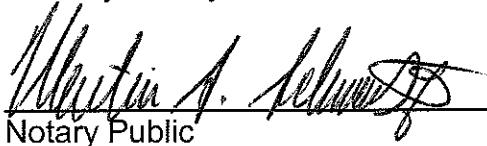
**SEE ATTACHED SERVICE LIST**

the attorney(s) for the respective parties in this action, at the above address(es) designated by said attorney(s) for that purpose by depositing same enclosed in a postpaid, properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office within the State of New York.



Karen A. Staudt  
KAREN A. STAUDT

Sworn to before me this  
16<sup>th</sup> day of May, 2008



Martin A. Schwartzberg  
Notary Public

MARTIN A. SCHWARTZBERG  
Notary Public, State of New York  
No. 02SC4959786  
Qualified in Nassau County  
Commission Expires December 11, 2009

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